

**UNITED STATES DISTRICT COURT**  
**DISTRICT OF NEVADA**

Bobby Knouse,

Plaintiff,

VS.

National General Insurance Company,

Defendant.

Case No.: 2:14-cv-1344-GMN-VCF

## ORDER

Pending before the Court is Defendant National General Insurance Company's Motion to Dismiss. (ECF No. 8). Plaintiff Bobby Knouse filed a Response, (ECF No. 10), to which Defendant replied, (ECF No. 11).

This action centers upon Plaintiff Bobby Knouse's allegation that Defendant, his insurer, breached the underinsured motorist provisions of his policy by refusing to tender the limit of \$100,000 following an auto accident that occurred on June 5, 2012. (Am. Compl. 2:16-3:4, ECF No. 1-2). The Amended Complaint was filed in Clark County District Court on July 14, 2014. (*Id.* at 1). On August 13, 2014, Defendant filed a Demand for Security of Costs pursuant to Nev. Rev. Stat. § 18.130. On August 18, 2014, Defendant removed the case, citing this Court's diversity jurisdiction pursuant to 28 U.S.C. § 1332. (Pet. for Rem. 2:2-5, ECF No. 1).

In the instant Motion, Defendant argues that the Amended Complaint should be dismissed because Plaintiff did not post a security for costs as demanded in Defendant's August 13, 2014 filing. However, after reviewing the record in this case, the Court declines to dismiss the Amended Complaint, and will grant Plaintiff an additional thirty days in which to post a \$500 security for costs.

The Ninth Circuit recognizes that “federal district courts have inherent power to require

1 plaintiffs to post security for costs.” *Simulnet E. Associates v. Ramada Hotel Operating Co.*, 37  
2 F.3d 573, 574 (9th Cir. 1994). When determining whether to require the posting of a security  
3 in a diversity action, a federal district court typically follows the forum state’s practice,  
4 particularly when a party is a non-resident. *See, e.g., id.*; *Pittman ex rel. L.P. v. Avish P’ship*,  
5 525 F. App’x 591, 593 (9th Cir. 2013); 10 Fed. Prac. & Proc. Civ. § 2671 (3d ed.).

6 Nev. Rev. Stat. § 18.130 provides that a defendant, upon the filing and service of a  
7 written demand, may require an out-of-state plaintiff to post a security of costs in an amount up  
8 to \$500. Nev. Rev. Stat. § 18.130(1). This Section also provides that the Court may dismiss an  
9 action if a plaintiff has failed to post a security of costs within thirty days from “the service of  
10 notice that security is required.” Nev. Rev. Stat. § 18.130(4). “It has been the policy of the  
11 United States District Court for the District of Nevada to enforce the requirements of NRS §  
12 18.130 in diversity actions.” *Simulnet E. Associates v. Ramada Hotel Operating Co.*, 37 F.3d  
13 573, 574 (9th Cir. 1994).

14 In this case, the Court declines to take the drastic action of dismissal in response to  
15 Plaintiff’s failure to post a security for costs. Though Plaintiff does not dispute that he is an  
16 out-of-state litigant and admits he did not post a security of costs as requested by Defendant, his  
17 response to the instant Motion makes clear that he did not believe that he was required post a  
18 security after the case was removed to this Court. (Pl.’s Resp 2:20-22, ECF No. 10)  
19 (“Defendant has filed its Motion for Dismissal using only state procedural law as its reasoning  
20 for the dismissal. The reason for this is there is no Federal law requiring a posting of bond for  
21 an original proceeding.”). Therefore in light of the discretionary standard provided under Nev.  
22 Rev. Stat. § 18.130, and the Court’s strong preference for resolving claims on their merits, the  
23 Court will deny the instant Motion to Dismiss. However, Plaintiff shall be required to post a  
24 \$500 security for costs within thirty days of the entry of this order. Failure to do so may result  
25 in the dismissal of the Amended Complaint.

1 Accordingly,

2 **IT IS HEREBY ORDERED** that Defendant's Motion to Dismiss, (ECF No. 8), is  
3 **DENIED.**

4 **IT IS FURTHER ORDERED** that Plaintiff shall post a \$500 Security for Costs with  
5 the Clerk of this Court by April 24, 2015. Failure to do so may result in the dismissal of  
6 Plaintiff's Amended Complaint.

7 **DATED** this 23rd day of March, 2015.

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10 Gloria M. Navarro, Chief Judge  
11 United States District Court  
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